

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
JAVIER VASQUEZ-ROBLES, et al
Defendants.

No. CR 02 20085 JF

**~~[PROPOSED]~~ ORDER SETTING
TRIAL DATE AND EXCLUDING TIME
FROM THE SPEEDY TRIAL ACT**

UNITED STATES OF AMERICA,
Plaintiff,
v.
JAVIER VASQUEZ-ROBLES,
Defendant.

No. CR 03 20085 JW JF

**~~[PROPOSED]~~ ORDER SETTING
TRIAL DATE, EXCLUDING TIME
FROM THE SPEEDY TRIAL ACT,
AND SETTING OF THE PRETRIAL
CONFERENCE**

The above two related cases, *to wit*: CR 02-20085 (hereinafter “the money laundering trial”) and CR 03-20085 (hereinafter “the INS trial”) came on regularly before the court on September 9, 2009. Counsel for all parties were present.

Previous orders of this court had set the money laundering trial to commence before the

1 INS trial. All parties, with the exception of Emelia Vasquez, informed the court that they now
2 wished the INS trial to commence first. For her part, Emelia Vasquez informed the court that she
3 was very close to reaching a negotiated disposition with the United States. Counsel for the
4 United States agreed. Emelia Vasquez, therefore took no position on the order of the trials.

5 Mr. Meltzer, counsel for Javier Vasquez, informed the court that in the event that the
6 court was willing to reverse the order of the trials, he would not be available to try the INS case
7 until late October of 2009. He also opined that he needed until mid January of 2010 to adequately
8 prepare for the trial of the larger money laundering case.

9 Having considered the arguments of all parties, and without objection from any party, the
10 court ORDERS as follows.

11 As to CR 02-20085, *i.e.*, the money laundering trial, the previous trial date is VACATED.
12 The court re-sets the case for trial on January 15, 2010, at 1:30 p.m. Further, the court
13 EXCLUDES 128 days, *i.e.*, from September 9, 2009, to January 15, 2010, from the time the
14 Speedy Trial Act, 18 U.S.C. §§ 3161, *et seq.*, would otherwise require the trial to commence.

15 The bases for this exclusion are, first, to allow counsel for the Javier Vasquez reasonable
16 time for effective preparation (taking into account the exercise of due diligence). Therefore,
17 pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv), the court excludes 128 days. The court FINDS that the
18 ends of justice served by this delay outweigh the best interests of the public and codefendants
19 (who have not objected) in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

20 The court further FINDS that a delay of 128 days is necessary to provide Javier Vasquez
21 with continuity of counsel, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv). As stated
22 above, Mr. Meltzer will be engaged preparation and trial in the INS case until Late October,
23 2009. Mr. Meltzer needs to occupy his time with this case before he can prepare for trial in the
24 money laundering trial.

25 As to CR 03-20085, *i.e.*, the INS trial, the court sets Friday, October 23, 2009, at 1:30
26 p.m. for commencement of trial. The court excludes 44 days, *i.e.*, from September 9, 2009, to
27 October 23, 2009, from the time period in which the trial would otherwise have to commence.
28 For reasons stated above, the court further FINDS that a delay of 44 days is necessary to provide

1 Javier Vasquez with continuity of counsel, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

2 The court did not set a date for a pretrial conference for the INS trial while it was on the
3 bench on September 9, 2009. The parties have informed the court that afterwards, they conferred
4 and agreed that Thursday, October 15, 2009, at 9:00 a.m., would be a mutually convenient time
5 for the pretrial conference to be held. Accordingly, based on a stipulation of the parties, the court
6 ORDERS that the pretrial conference in CR 03-20085, the INS trial, shall be held on Thursday
7 October 15, 2009, at 9:00 a.m.

8 IT IS SO ORDERED.

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11 DATED: 10/15/09


THE HONORABLE JEREMY FOGEL
United States Judge
Northern District of California